

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

BILLY TRACY, #999607,

*Petitioner,*

v.

DIRECTOR, TDCJ-CID,

*Respondent.*

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CIVIL ACTION NO. 5:20-cv-156

JUDGE MICHAEL J. TRUNCALE

DEATH PENALTY

**ORDER GRANTING UNOPPOSED MOTION FOR EXTENSION**  
**OF TIME TO FILE AMENDED PETITION**

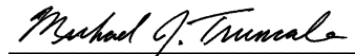
Before the Court is Petitioner Tracy's Unopposed Motion for Extension of Time to File Amended Petition for Writ of Habeas Corpus [Dkt. 35]. Petitioner's amended petition for writ of habeas corpus is currently due on January 28, 2022. [Dkt. 32]. Petitioner seeks an extension of time to file his amended petition until sixty days after the Fifth Circuit issues its judgment in Petitioner's pending interlocutory appeal, Cause No. 21-40686.

Appointed Counsel for Petitioner reports that, proceeding *pro se*, Petitioner filed an interlocutory appeal [Dkt. 26] from the Court's Order denying Petitioner's *pro se* motion to substitute counsel. [Dkt. 24]. Appointed counsel further reports that he and appointed co-counsel are not representing Petitioner in his interlocutory appeal, but out-of-state, retained counsel have filed an appearance and a brief on Petitioner's behalf. [Dkt. 35 at 7]. Because of the subject matter of the interlocutory appeal taken pursuant to 18 U.S.C. § 3599(e) and retained counsels' seeking the appointment of new counsel, appointed counsel states that his ability to effectively represent Petitioner is constrained while Petitioner's interlocutory appeal is pending before the Fifth Circuit.

Petitioner's interlocutory appeal raises unique questions which will require a ruling from the Fifth Circuit to be resolved. Petitioner's appointed counsel also correctly points out that, until the Fifth Circuit has ruled upon Petitioner's interlocutory appeal, it would be a waste of time and resources for the parties to proceed with the filing of the amended petition and the required response. The motion is reasonable. It is accordingly

**ORDERED** that the Unopposed Motion for Extension of Time to File Amended Petition for Writ of Habeas Corpus [Dkt. 35] is **GRANTED**. Unless otherwise required by the Fifth Circuit's prospective opinion, Petitioner's amended petition will be due sixty (60) days after the Fifth Circuit issues its judgment in the pending interlocutory appeal in Cause No. 21-40686.

**SIGNED** this 10th day of January, 2022.



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Michael J. Truncale  
United States District Judge